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8 Attorney for Defendant Josef F. Boehm

9 IN THE UNITED STATES DISTRICT COURT

10 DISTRICT OF ALASKA

11
12 Sally C. Purser,)
13 Plaintiff,)
14 v.)
15 Josef F. Boehm, Allen K.)
Bolling, and Bambi Tyree,)
16 Defendants.)
17)
18)
19)

20 CASE NO.: A05-0085 (JKS)

21 I. DEFENDANTS REQUEST FOR AN EXAMINATION WAS TIMELY MADE AND GOOD
22 CAUSE HAS BEEN SHOWN

23 Defendant Boehm hereinafter addresses Plaintiff's opposition as follows:

24 A. Plaintiff's Contention That Boehm Has Waited to the Last
25 Minute to Perform a Mental Examination.

26 Within one day of the Court's November 9, 2006 Order, counsel for
Boehm attempted to meet and confer in order to set up an examination.
27 Plaintiff's counsel denied the request.
28

Boehm's counsel again attempted to meet and confer on December 6, 2006. Plaintiff's counsel again denied the request.

The week of December 12, 2006, Boehm's counsel sent expert Dr. Mark Mills to Anchorage for the purpose of an examination. Plaintiff's counsel refused refused.

A trial date has not been set, therefore, Plaintiff will not be prejudiced.

Defendant has never insinuated that he would refuse to allow a deposition of any of his experts. In fact, Defendant believes a Scheduling and Planning Conference is needed to calendar mutually agreeable dates for the taking of expert depositions.

Plaintiff argues "Boehm did not include a mental examination as part of the discovery plan to be incorporated in the Scheduling and Planning Order".

Present counsel was not party to that agreement and has requested a Scheduling and Planning Conference with this Honorable Court. Boehm will again seek a Conference with the Court due to the outstanding discovery issues and status of discovery within the present action.

B. Plaintiff's allegation that Boehm has failed to show good Cause.

Plaintiff alleges that Defendant does not show good cause because he can obtain the information and has obtained it through other means. Plaintiff sites to 1) the Dr. Rose report, and 2) Plaintiff's deposition.

Many of the events of Purser's life were withheld from Dr. Rose thus invalidating his findings as they relate to Defendant Boehm's alleged conduct. Missing are the myriad of individuals for whom Purser

1 smoked "crack" cocaine with, obtained "crack" cocaine from, traded sex
2 for money and drugs with as well as a detailed account of her
3 involvement in several scams to defraud men of their money and
4 property with co-conspirator Bambi Tyree.

5 Dr. Rose opined "...***She is experiencing significant psychological***
6 ***problems, although she may be exaggerating her complaints...***". Dr.
7 Rose Report, page 8

8 Furthermore, Defendant has shown a myriad of inconsistencies in
9 Plaintiff's testimony and as compared to the information provided to
10 her expert Dr. Rose. For this reason a true evaluation is needed.

11 **C. Plaintiff's Belief That an Independent Expert Should be**
12 **Appointed.**

13 Plaintiff's counsel contends that an Independent Expert be
14 appointed because Dr. Mark Mills "specializes in testifying for
15 defense attorneys and one who is likely biased by the misinformation
16 provided by Boehm and his legal team".

17 Counsel's comments are flagrant, irresponsible and highly
18 demeaning.

19 Dr. Mills is one of the foremost experts in his field. His
20 educational background, reputation of honesty and professional
21 experience are of the utmost respectability. His curriculum vitae
22 provided to this Court speaks for itself. Plaintiff's counsel has no
23 basis for his irresponsible allegations and insults.

24 Defendant's counsel has been more than up front with Plaintiff's
25 counsel and has attempted and will continue civilized communications
26 through writing, telephone and in person meetings. Defense counsel has
27 been and continues to be the subject of an unwarranted and unprovoked
28

1 steady stream of personal attacks by Plaintiff's counsel throughout
2 this case.

3 Defendant's counsel respectfully requests that the insults come
4 to an end as they serve no purpose to the outcome of this litigation
5 nor do they enhance the argument of either party.

6 Finally, Defendant has no objection to a observer being present
7 in during the examination, to be there solely as an observer.

8 **II. CONCLUSION**

9
10 For the foregoing reasons, Defendant Boehm respectfully requests
11 that this Honorable Court Order Purser to submit to a psychological
12 evaluation with Dr. Mills.

13 January 11, 2007

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